

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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**MANUEL L. BURNLEY JR.**

Plaintiff,

and

**STATE OF WISCONSIN DEPARTMENT  
OF JUSTICE, OFFICE OF CRIME  
VICTIM COMPENSATION SERVICES,  
STATE OF WISCONSIN DEPARTMENT  
OF HEALTH SERVICES and UNITED  
HEALTHCARE OF WISCONSIN,**

Involuntary Plaintiffs,

Case No. 19-CV-364

v.

**VILLAGE OF BROWN DEER  
and DEVON M. KRAEMER,**

Defendants.

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**ANSWER, COUNTERCLAIM AND CROSS-CLAIM OF INVOLUNTARY  
PLAINTIFF, UNITEDHEALTHCARE OF WISCONSIN, INC.**

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NOW COMES Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc., by its attorneys, Mallory & Zimmerman, S.C. by Matthew S. Mayer, and, as and for its answer to Plaintiff's Amended Complaint, and its counterclaim and cross-claim, hereby alleges and shows to the Court as follows:

1. In answering Paragraphs 1 through 76 of the Amended Complaint, admits the allegations contained therein.

2. In answering Paragraph 77 of the Amended Complaint, realleges and incorporates as if fully set forth hereat Paragraph 1 of this answer.

3. In answering Paragraphs 78 through 81 of the Amended Complaint, admits the allegations contained therein.

4. In answering Paragraph 82 of the Amended Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through 3 of this answer.

5. In answering Paragraphs 83 through 85 of the Amended Complaint, admits the allegations contained therein.

6. In answering Paragraph 86 of the Amended Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through 5 of this answer.

7. In answering Paragraphs 87 through 90 of the Amended Complaint, admits the allegations contained therein.

8. In answering Paragraph 91 of the Amended Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through 7 of this answer.

9. In answering Paragraphs 92 through 94 of the Amended Complaint, admits the allegations contained therein.

10. In answering Paragraph 95 of the Complaint, realleges and incorporates as if fully set forth hereat Paragraphs 1 through 9 of this answer.

11. In answering Paragraphs 96 through 98 of the Complaint, admits the allegations contained therein.

#### COUNTERCLAIM AND CROSS-CLAIM

NOW COMES Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc., by its attorneys, Mallory & Zimmerman, S.C. by Matthew S. Mayer, and, as and for its cross-claim

against Plaintiff, Manuel L. Burnley Jr., and its counterclaim against Defendants, Village of Brown Deer and Devon M. Kraemer, hereby alleges as follows:

1. Realleges and incorporates by reference herein the answer of Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc.
2. At all times herein, Plaintiff, Manuel L. Burnley Jr., received state-funded health benefits administered by UnitedHealthcare of Wisconsin, Inc. pursuant to Wis. Stat. § 49.89(9).
3. At all times herein, UnitedHealthcare of Wisconsin, Inc. processed claims and administered payment of medical expenses incurred by Plaintiff, Manuel L. Burnley Jr., as a result of injuries sustained in the incident referenced in the Amended Complaint.
4. Pursuant to Wis. Stat. § 49.89(2), UnitedHealthcare of Wisconsin, Inc. has a lien equal to the amount of the medical assistance provided as a result of the injury, sickness or death that gave rise to this claim. The lien is on any payment resulting from a judgment or settlement which may be due Plaintiff, Manuel L. Burnley Jr., and continues until such time as released and discharged by UnitedHealthcare of Wisconsin, Inc.
5. Pursuant to Wis. Stat. § 49.89(3), UnitedHealthcare of Wisconsin, Inc. has a right to make a claim to recover from a third party, including any Defendant found liable, if the assistance is provided as result of the occurrence of injury, sickness or death.
6. UnitedHealthcare of Wisconsin, Inc.'s lien shall be paid from any compensation received as a result of the occurrence of injury, sickness or death, including any med-pay benefits paid directly to Plaintiff, Manuel L. Burnley Jr., in accordance with Wis. Stat. § 49.89(5).

WHEREFORE, Involuntary Plaintiff, UnitedHealthcare of Wisconsin, Inc., demands judgment as follows:

- A. On its subrogation claim in the current amount of \$58,693.91, plus any other medical payments made, or to be made, as well as interest;
- B. For the attorneys' fees, costs, and disbursements of this Involuntary Plaintiff; and
- C. For such other and further relief as the Court deems just and equitable.

DATED this 26th day of June 2019.

MALLERY & ZIMMERMAN, S.C.  
Attorneys for Involuntary Plaintiff,  
UnitedHealthcare of Wisconsin, Inc.

ADDRESS:

500 Third Street, Suite 800  
P.O. Box 479  
Wausau, WI 54402-0479  
715.845.8234 – telephone  
715.848.1085 – facsimile  
mmayer@mzattys.com

BY: s/ Matthew S. Mayer  
MATTHEW S. MAYER  
State Bar No. 1001237